

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

JAMES KEEL, on behalf of,)
CYNTHIA KEEL,)
)
Plaintiff,)
)
v.)
)
MICHAEL J. ASTRUE,)
Commissioner of Social Security,)
)
Defendant.)

Case No. 4:10 CV 1636 CDP

MEMORANDUM AND ORDER


This matter is before me for judicial review under 42 U.S.C. § 405(g).

Plaintiff James Keel is appealing a final decision of the Social Security Administration denying his deceased wife's application for disability insurance and supplemental security income under Titles II and XVI of the Social Security Act. Defendant has submitted a motion to reverse and remand this action. Defendant requests that I both enter final judgment in accordance with Fed. R. Civ. P. 58 reversing the decision of the Administrative Law Judge and remand this case to the Commissioner of Social Security for further proceedings. Plaintiff has no objection to this motion. After careful consideration, I will grant this motion and remand this action for further proceedings.

Sentence four of 42 U.S.C. § 405(g) states that “[t]he court shall have power to enter, upon the pleadings and transcript of the record, a judgment affirming, modifying, or reversing the decision of the Commissioner of Social Security, with or without remanding the cause for a rehearing.” However, in order for me to properly remand a case to the Commissioner pursuant to sentence four, I must enter an order either affirming, modifying, or reversing the Commissioner's decision. *See Brown v. Barnhart*, 282 F.3d 580, 581 (8th Cir. 2002).

Accordingly,

IT IS HEREBY ORDERED that defendant’s motion to remand [#22] is GRANTED and the decision of the Commissioner is reversed and remanded for further proceedings consistent with defendant’s motion to remand. A separate judgment in accordance with this Order is entered this same date.



CATHERINE D. PERRY
UNITED STATES DISTRICT JUDGE

Dated this 29th day of March, 2011.